

MORGANTOWN BOARD OF ZONING APPEALS

MINUTES

October 18, 2006

6:30 P.M.

City Council Chambers

Members Present: Jim Rockis, Bernie Bossio, Mark Furfari, and Jim Shaffer.

Members Absent: Nick Iannone.

Staff Present: Lisa Mardis, Deputy Planning Director.

MATTERS OF BUSINESS: None.

OLD BUSINESS:

1. **TABLED V06-19 / Bjorkman / 525-531 Grant Avenue:** Request by Bill Bjorkman for variance approval from *Appendix A: Development Standards Table* for property located at 525-531 Grant Avenue. Tax Map #15, Parcels #216,217,220; an R-3, Multi-family Residential District.

Motion to take off the table by Bossio, second by Shaffer. Motion carried unanimously.

Mardis read the staff report stating that the petitioner seeks to raze the existing two structures and construct a three-story, twelve two-bedroom multi-family structure on the subject realty. The Planning Commission approved the petitioner's minor subdivision request in August to combine the subject parcels contingent upon razing the structures. The petitioner's Development of Significant Impact Site Plan application hearing before the Planning Commission was scheduled for September 13th and the application was approved.

Mardis clarified that the proposed site plan (attached hereto) illustrates a one (1) foot encroachment into the required five (5) foot southern side setback and a three and a half (3.5) foot encroachment into the required 7.5 foot northern side setback (adjacent to Sixth Street). As such, the petitioner must obtain variances for said side setback encroachments.

Addendum A of this report illustrates the location of the subject realty, photographs of the existing structures, and the petitioner's proposed front elevation.

Height, Bulk, Area, and Density		
Development Standard	Provision	Provided
Height	2-4 stories	3 stories
Lot	4,000 sq. ft.	7,320 sq. ft.
Setbacks	Min. Front – 5’ Min. Side – 7.5’ along Sixth St. and 5’ on opposite side Min. Rear - 20 ft.	Front – 5’ Side – 4’ along Sixth St. and 4’ on opposite side Rear – 20’
Maximum Lot Coverage	60% or 4,392 sq. ft.	3,136 sq. ft.

Bill Bjorkman, applicant, explained that the current building has 4’ setbacks.

Bossio asked for public comments. There being none, the public portion was closed.

Mardis explained that the proposed project represents the redevelopment of aging structures to housing that will meet modern building code and fire code design standards. The final product appears to support the “Sunnyside Up” vision by increasing density while providing sufficient parking and enhancing the quality and character of the neighborhood. The Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the “Findings of Fact” submitted by the applicant. Staff recommends approval of the variances as requested by finding in the affirmative for Finding of Fact #4 as presented by the petitioner and in the affirmative for the remaining Findings of Fact as suggested below:

- #1: The proposed setback along Sixth Street represents the existing building setback. Because the subject parcels are relatively unique within the area in that they are only 61’ deep, a wider building footprint is needed to meet desired unit configuration and required parking.
- #2. The subject parcels are unique within the area in that they are only 61’ deep, leaving redevelopment options limited in relation to neighboring properties.
- #3. The redevelopment project will replace two old buildings which are eye sores with a very nice building that meets the design and performance standards of the Sunnyside Overlay District. All parking will be provided on the site, which is a desired amenity not readily available in Sunnyside.

Rockis had some questions about the site plan.

Bjorkman clarified various items.

Furfari commented on the requested variances and where they are located.

Bossio asked what the parking regulations are.

Mardis explained that, in the Sunnyside Overlay District, it is based on ½ space per bedroom rounded to the nearest whole number. On-street parking spaces immediately adjacent to the subject realty may be counted toward fulfilling the parking requirement.

Bossio inquired if he has sufficient parking.

Mardis replied that he is exceeding the requirement.

Motion to find in the positive, as proposed and amended by staff, by Rockis, second by Shaffer. Motion carried unanimously.

Motion to approve the variance request by Shaffer, second by Furfari. Motion carried unanimously.

NEW BUSINESS:

1. **V06-21 / Lee / Pennsylvania Avenue:** Request by Eric Lee for variance approval from zoning ordinance 402.07 Bufferyard Landscaping Requirements, A. which states, “New non-residential or multi-family residential buildings that abut a residential property (zoned or use) shall provide a landscape buffer ten (10) feet wide planted with five (5) medium to large trees and ten (10) to fifteen (15) shrubs per 100 linear feet of transitional yard between the non-residential and residential uses. This requirement may supersede the minimum setback requirement for the district.” For property located on Pennsylvania Avenue. Tax Map #29, Parcel #143; a B-2, Service Business District.

Bossio stated that this was withdrawn at the applicant’s request.

Mardis commented that it was no longer pertinent due to action by City Council.

2. **V06-22 / Three Arrows, LLC / 590 Preston Road:** Request by Three Arrows, LLC for variance approval from Appendix A: Development Standards Table for property located at 590 Preston Road. Tax Map #30, Parcel #40; an R-1A, Single-family Residential District.

Mardis read the staff report stating that the petitioner seeks to build a single-family dwelling on the subject realty. The location of the structure is proposed at 135 feet from the front property boundary, which exceeds the maximum front yard setback of twenty (20) feet set forth in the “Development Standards Table” (Appendix A) of the Zoning Ordinance. As such, the applicant must obtain a 115 foot variance. Addendum A of this report illustrates the location of the subject realty.

Dave Delaney, representing Three Arrows, LLC, observed that all the houses in the vicinity exceed the 20' setback and they are staying within the character of the community.

Furfari asked where access to the house would be at the end of the street.

Delaney replied that the driveway will be just past the last driveway

Mardis had a plan that was not included because of computer malfunctions.

Bossio asked for public comments. There being none, the public portion was closed.

Mardis advised that the petitioner is concurrently asking for minor subdivision approval by the Planning Commission. Approval of the subject variance petition should be made contingent upon approval of the minor subdivision petition. Last week, the petitioner received permission by the Planning Commission for minor subdivision approval. The Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the "Findings of Fact" submitted by the applicant.

Mardis explained that Staff recommends approval of the variance as requested with the above condition and the following amendments to the findings of fact.

#2. The predominant setback trend for existing structures along Preston Road exceeds the maximum setback requirement of twenty (20) feet.

#3. The proposed setback conforms to the trends of surrounding structures thereby contributing to the character of the neighborhood.

Bossio asked why we have a maximum setback and if it is the same in every district.

Mardis answered that it was passed with the new ordinance and it varies by district.

Bossio asked for an explanation of the letter from James Wiley dated October 3, 2006.

Mardis responded that the Department received a letter from his lawyer today rescinding the previous letter and that he is now in favor of the variance approval.

Motion to find in the positive by Rockis, second by Shaffer. Motion carried unanimously.

Motion to approve the variance request as submitted by Furfari, second by Rockis. Motion carried unanimously.

OTHER BUSINESS:

Public Comments: None.

Staff Comments: None.

There was discussion about how information is presented by applicants.

ADJOURNMENT: 6:59 p.m.